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APPLICATION NO. FILING DATE		FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/072,574 02/06/2002		Markus Kukuk	2001P07456 US01 1940		
75	590 10/03/2003	EXAMINER			
Siemens Corp		MULCAHY, JOHN M			
Intellectual Pro 186 Wood Ave	perty Department nue South	ART UNIT	PAPER NUMBER		
Iselin, NJ 088		3739	4		
			DATE MAILED: 10/03/2003		

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

Office Action Summary    Examiner		200								
### Examiner ### Art Unit ### 3739  ### The MAILING DATE of this communication appears on the cover sheet with the correspondence address → Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  ### Examiner ### Experiment of time may be available under the problems of 3° CPR 1.756(a). In a event, however, may a reply to timely filed  ### THE MAILING DATE OF THIS COMMUNICATION.  ### Experiment of time may be available under the problems of 3° CPR 1.756(a). In a event, however, may a reply to timely filed  ### Experiment of the problems of the problems of 3° CPR 1.756(b). In a event, however, may a reply to timely filed  ### Experiment of the problems of the problems of 3° CPR 1.756(b).  ### Experiment of the problems of the problems of 3° CPR 1.756(b).  ### Experiment of the problems of the problems of 3° CPR 1.756(b).  ### Experiment of the problems of the problems of 3° CPR 1.756(b).  ### Experiment of the problems of the problems of the communication, even if timely filed, may reduce any camed patient lerm adjustment. Bea 3° CPR 1.756(b).  ### Experiment of the problems of the communication, even if timely filed, may reduce any camed patient lerm adjustment. Bea 3° CPR 1.756(b).  ### Experiment of the problems of the communication, even if timely filed, may reduce any camed patient lerm adjustment.  ### Experiment of the problems of the communication of the communication.  ### Experiment of the problems of the problems of the communication of the problems of the			Application	No.	Applicant(s)	$\sim d$				
John M. Mulcahy   3739			10/072,574		KUKUK, MARKUS	$\mathcal{O}^{\prime\prime}$				
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THE MAILING DATE OF THIS COMMUNICATION.  Editations of time may be available under the provisions of 3 CPR 1.15(6). In no event, however, may a reply be timely filed after SIX (6) MONTRS from the mailing date of this communication.  I floop and the SIX (6) MONTRS from the mailing date of this communication.  I floop and the six of the provision of the communication of the six of the										
2a)  This action is FINAL. 2b)  This action is non-final.  3  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4)  Claim(s)  1-28 is/are pending in the application.  4a) Of the above claim(s)  is/are withdrawn from consideration.  5)  Claim(s)  is/are allowed.  6)  Claim(s)  is/are rejected.  7)  Claim(s)  is/are objected to.  8)  Claim(s)  is/are objected to.  8)  Claim(s)  is/are aubject to restriction and/or election requirement.  Application Papers  9)  The specification is objected to by the Examiner.  10  The drawing(s) filed on  is/are: a)  accepted or b  objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  11)  The proposed drawing correction filed on  is: a)  approved b  disapproved by the Examiner.  If approved, corrected drawings are required in reply to this Office action.  12)  The oath or declaration is objected to by the Examiner.  Priority under 35 U.S.C. §§ 119 and 120  13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a)  All b  Some  ol  None of:  1.  Certified copies of the priority documents have been received in Application No.  application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  a)  The translation of the foreign language provisional application has been received.  15)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.  Attachment(s)	A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.  - If NO period for reply specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).  - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).									
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## Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-25, drawn to a method of determining instructions for handling a flexible instrument or endoscope, classified in class 600, subclass 114.
  - II. Claims 26-28, drawn to a system for monitoring the configuration of a flexible instrument, classified in class 600, subclass 118.
- 2. The inventions are distinct, each from the other because of the following reasons: Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus as claimed can be used to practice another and materially different process, specifically, to determine the position of the instrument rather than to provide instructions for handling the instrument.
- 3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, and the search required for Group I is not required for Group II, and vice-versa, restriction for examination purposes as indicated is proper.

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- 4. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).
- 5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M. Mulcahy whose telephone number is (703) 308-3134. The examiner can normally be reached on M-F, 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C. M. Dvorak can be reached on (703) 308-0994. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0873.

√ohn M. Mulcahy Primary Examiner Art Unit 3739

September 30, 2003